[redacted]

561

MT LEGISLATIVE HISTORY

Chapter 656 1985

Bill (H) 616 S _____ Original bill & hist. ✓ C

H. Committee on Local Government			S. Committee on Taxation		
Hearing Date(s)	Feb 12	✓ C	Hearing Date(s)	Mar 26	✓ C
	Feb 14	✓ C		Mar 27	✓ C
	Feb 21	✓ C			C
	Feb 26	✓ C			C
Date Out		C		Mar 27	✓ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

CHAIRMAN--TOWE, TOM
NORMAL SCHEDULE==> SITE: ROOM 413/415 DAYS: M-TU-W-TH-F TIME: 8:00-10:00 A.M.

SECRETARY-AAGENES, NANCY

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
HB0580	2/19	3/19	3/21	CONCUR		3/21
DARKO, PAULA A.			AUTHORIZING COUNTY FUNDING OF SEARCH AND RESCUE UNITS			
HB0596	2/15	3/21		CONCUR AS AMENDED		3/21
DONALDSON, GENE			EXEMPT FARMERS' MARKET ASSOC. FROM CORPORATE LICENSE TAX PROVISIONS			
HB0607	3/28	4/11	4/17, 4/17	CONCUR		4/17
QUILICI, JOE			PRODUCTION INCENTIVE TAX CREDIT TO COAL SEVERANCE TAX			
HB0616	3/05	3/26	3/27	CONCUR AS AMENDED		3/27
BROWN, JAN			AUTHORIZING CREATION OF BUSINESS IMPROVEMENT DISTRICTS			
HB0625	2/14	3/19	3/20, 4/5	CONCUR AS AMENDED	TAXATION	4/5
COHEN, BENJAMIN R.	(BEN)		INCREASED ASSESSMENT OPTIONS FOR STREET MAINTENANCE DISTRICTS			
HB0625	4/10		4/15	CONCUR AS AMENDED		4/15
COHEN, BENJAMIN R.	(BEN)		INCREASED ASSESSMENT OPTIONS FOR STREET MAINTENANCE DISTRICTS			
HB0636	3/11	4/03	4/16	CONCUR AS AMENDED		4/16
ABRAMS, HUBERT J.			REDUCED TAX RATE ON PETROLEUM PRODUCED BY TERTIARY RECOVERY METHODS			
HB0651	4/03	4/16	4/16	TABLED		4/16
WINSLOW, CAL			TAX ALCOHOLIC BEVERAGES TO FUND JAIL CONSTRUCTION BONDS PROGRAM			
HB0652	3/20	4/03		CONCUR		4/3
SWITZER, L. DEAN			ALLOWING RECLAMATION AND ADMINISTRATIVE COSTS DEDUCTED FROM NET PROCEEDS			
HB0693	4/03	4/09	4/17	TABLED		4/17
KOEHNKE, FRANCIS			EXEMPTING CERTAIN AGRICULTURAL IMPROVEMENTS FROM TAXATION - WELLS & SEWERS			
HB0696	3/04	3/26	4/4, 4/5, 4/17	CONCUR AS AMENDED		4/17
KITSELMAN, LES			DEPT OF REVENUE REQUIRED TO AMEND RULE ON CENTRALLY ASSESSED PROPERTY			

HOUSE BILL NO. 616

INTRODUCED BY J. BROWN, MAZUREK, SIMON

IN THE HOUSE

February 1, 1985	Introduced and referred to Committee on Business and Labor.
February 2, 1985	Rereferred to Committee on Local Government.
February 26, 1985	Committee recommend bill do pass as amended. Report adopted.
	Bill printed and placed on members' desks.
February 27, 1985	Second reading, do pass as amended.
	On motion, rules suspended and bill placed on third reading this day.
	Third reading, passed.
	Transmitted to Senate.

IN THE SENATE

March 5, 1985	Introduced and referred to Committee on Taxation.
March 27, 1985	Committee recommend bill be concurred in as amended. Report adopted.
March 29, 1985	Second reading, concurred in as amended.
April 1, 1985	Third reading, concurred in. Ayes, 48; Noes, 0.
	Returned to House with amendments.

IN THE HOUSE

April 2, 1985	Received from Senate.
April 8, 1985	Second reading, amendments not concurred in.
	On motion, Free Conference Committee requested.
April 9, 1985	Free Conference Committee appointed.
April 22, 1985	Free Conference Committee reported.
April 23, 1985	Second reading, Free Conference Committee report adopted.
	Third reading, Free Conference Committee report adopted.
	Free Conference Committee report adopted by Senate.
April 24, 1985	Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 616

INTRODUCED BY J. Brown T. Asay J. Simon

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING CREATION OF BUSINESS IMPROVEMENT DISTRICTS; PROVIDING PROCEDURES FOR CREATION; PROVIDING FOR ORGANIZATION, OPERATION, APPOINTMENT, TERMS, AND REMOVAL OF A BOARD OF TRUSTEES; ESTABLISHING POWERS OF THE BOARD OF TRUSTEES; PROVIDING FOR A BUDGET AND AN ANNUAL WORK PLAN; PROVIDING FOR A MANNER OF ASSESSING COSTS; PROVIDING FOR A TAX LEVY UPON THE DISTRICT; PROVIDING FOR THE DURATION OF THE DISTRICT; PROHIBITING DECREASE IN SERVICES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [This act] may be cited as the "Business Improvement District Act".

Section 2. Purpose. (1) The purpose of [this act] is to provide for the creation of business improvement districts having the purposes and powers provided in [this act] that will serve a public use; will promote the health, safety, prosperity, security, and general welfare of the inhabitants thereof and of the people of this state; and will be of special benefit to the property within the boundaries of any district created pursuant to the

provisions of [this act].

(2) The legislature declares that because of a number of atypical factors and special conditions concerning business development unique to each locality, the rule of strict construction has no application to [this act], which shall be liberally construed to effect the purposes and objects for which it is intended.

Section 3. Definitions. As used in [this act], the following definitions apply:

(1) "Board" means the board of trustees created in [section 5].

(2) "Business" means all types of business, including professions.

(3) "Chief executive officer" means the mayor in the case of a municipality or the chief executive of a consolidated city-county government.

(4) "District" means a business improvement district created under [this act].

(5) "Governing body" means the legislative body of a local government.

(6) "Local government" means a municipality or a consolidated city-county government.

Section 4. Establishment of a district. (1) Upon receipt of a petition signed by the owners of more than 60% of the area of the property proposed in the petition to be

 INTRODUCED BILL HB 616

included in a district, a governing body shall establish a district in the same manner as the establishment of a special improvement district pursuant to Title 7, chapter 12, part 41, except as otherwise provided in [this act].

(2) If there is sufficient protest to bar the establishment of a district, as provided in 7-12-4113(1)(b), a governing body may take no further proceedings on the establishment of the district for a period of 1 year from the date the sufficient protest was received by the clerk of the governing body.

Section 5. Board of trustees -- appointment -- number. (1) When the governing body of a local government adopts an ordinance creating a business improvement district, the chief executive officer, with the approval of the governing body, shall appoint not less than five or more than seven owners of property within the district to comprise the board of trustees of the district.

(2) The number of members of the board, once established, may be changed within these limits from time to time by subsequent resolutions of the governing body of the local government. A resolution to reduce board membership may not require resignation of any member prior to completion of his appointed term.

Section 6. Term of office. (1) Three of the members who are first appointed must be designated to serve for

terms of 1, 2, and 3 years, respectively, from the date of their appointments, and two must be designated to serve for terms of 4 years from the date of their appointment. For a seven-member commission, there must be two additional appointments for terms of 2 years and 3 years, respectively.

(2) After initial appointment, members must be appointed for a term of office of 4 years, except that a vacancy occurring during a term must be filled for the unexpired term. A member shall hold office until his successor has been appointed and qualified.

Section 7. Removal of board member. A member of a board of trustees may be removed by the chief executive officer with the consent of the governing body.

Section 8. Organization of board of trustees -- no compensation. (1) The chief executive officer shall designate which member of the board is to be the first chairman. When the office of chairman of the board becomes vacant thereafter, the board shall elect a chairman from among its members. The term of office as chairman of the board, unless otherwise prescribed by the governing body, must be for 1 calendar year or for that portion thereof remaining after each chairman is designated or elected.

(2) Members may receive no compensation.

Section 9. Powers of board in administering district. The board in administering a district has all powers

necessary to carry out the functions of the district contained in the ordinance creating it, including the power to:

(1) sue and be sued, enter into contracts, and hire and terminate personnel needed for its purposes;

(2) provide special police, maintenance, or cleaning personnel for the protection and enjoyment of the property owners' businesses and the general public using the business district;

(3) landscape and beautify public areas and to maintain those areas;

(4) contract with the governing body to maintain, operate, or repair public parking facilities;

(5) contract with the governing body to maintain streets, alleys, malls, bridges, ramps, tunnels, landscaping, and other public facilities as mutually agreed upon;

(6) promote private investment and business expansion in the district;

(7) provide for the management and administration of the affairs of the district;

(8) promote business activity by advertising, decorating, marketing, and promoting and managing events and other actions designed for the general promotion of business activities in the district; and

(9) perform such other functions as are necessary to carry out the purposes of [this act] and to further the objectives of the district.

Section 10. Annual budget and work plan -- approval -- procedure -- tax. (1) At a time determined by the governing body, the board shall submit to the governing body for approval a work plan and budget for the ensuing fiscal year.

(2) Following public notice that a work plan and budget have been submitted and that the governing body will assess a tax to defray the cost of the work plan and budget, the governing body shall hold a public hearing on objections to the work plan and budget. After the hearing, the governing body may modify the work plan and budget as it considers necessary and appropriate.

(3) After approval of the work plan and budget and to defray the cost thereof for the next fiscal year, the governing body shall by resolution levy and assess a tax upon all of the property in the district using as a basis one of the methods prescribed in [section 11].

(4) A copy of the resolution shall be delivered to the treasurer of the local government to be placed on the tax roll and collected in the same manner as other taxes.

Section 11. Manner of assessing costs. The governing body shall adopt one of the following methods of assessing costs for the purpose of defraying the costs of carrying out

the functions of the district:

(1) The governing body may assess the entire cost of the district against the entire district, each parcel of land within the district to be assessed for that part of the whole cost which its area bears to the area of the entire district, exclusive of streets, alleys, and public places.

(2) The governing body may assess the entire cost of the district against the entire district, each lot or parcel of land and improvements within the district to be assessed for that part of the whole cost which its assessed value bears to the assessed value of the entire district, exclusive of streets, alleys, and public places.

(3) The governing body may use a combination of the two methods of assessment of costs provided in subsections (1) and (2).

Section 12. Duration of district. The period of duration of a business improvement district is perpetual or until dissolved by the governing body.

Section 13. Governing body not to decrease public services. The governing body may not decrease the level of public services in the district existing prior to the creation of the district unless the services at the same time are decreased throughout the jurisdictional area of the governing body, nor may it transfer the financial burden of providing those services to the district. The governing body

may not discriminate in the provision of publicly funded services between areas included in such district and areas not so included.

Section 14. Limitation on local government liability. An obligation or debt of any nature of a district is not an obligation or debt of the local government that established the district, and in no event is a debt or obligation of a district payable out of any funds or properties of the local government. The debts and obligations of a district are payable solely from the funds and properties of the district.

Section 15. Effective date. This act is effective on passage and approval.

-End-

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 26, 1985

The fifty-seventh meeting of the Senate Taxation Committee was called to order at 8:03 am by Chairman Thomas E. Towe in Room 413-415 of the State Capitol.

ROLL CALL: Senator Hager joined the committee at 8:15 am, Senator Brown at 8:25 am; Senator McCallum at 9:05 am. All other members were present at roll call.

CONSIDERATION OF HB 616: Representative Jan Brown, House District 46, was recognized as chief sponsor of the bill. She said the bill would allow for the creation of a business improvement district, much like special improvement districts are now created.

PROPONENTS

Mr. Pat Melby, representing the Helena Improvement Society, said the bill is a tool that will help encourage private investments. He said the bill needed amendment and discussed how the amendments would work (Exhibit 1).

Mr. Bill Verwolf, City of Helena, said he agreed that the amendments improved the bill and that the city supported the bill. He said this legislation is the top priority for the city. He said it gives the business community a self help mechanism for which the city acts as an agent.

Mr. Greg Jackson, Urban Coalition, said they are in favor of HB 616. He mentioned related bills.

Ms. Carol Daly, President of the Montana Economic Development Association, said that in a poll of their own membership and 1000 other businesses, there was overwhelming support for HB 616. She said they urge passage with amendment.

Mr. Larry Douglas, Department of Commerce, Business Assistance Division, said that research in other states indicates that this kind of legislation is effective. He noted that the legislation is permissive and allows a partnership between the public and private sectors. He said that those who conceive the legislation are held responsible for its functioning. He said that the amendments streamline and clarify the bill.

Mr. Gordon Morris, Montana Association of Counties, said the benefit had been outlined by others and that MACO supported the bill.

Mr. Roger Young, Great Falls Area Chamber of Commerce, said this would give businesses a tool to harness themselves for their own benefit.

Mr. Alan Nicholson, Helena Improvement Society and Helena Chamber of Commerce said they have worked now for four years to pass this bill.

Mr. Clark Pyfer, speaking for Ed Jasmin and the Montana Ambassadors, said that they enthusiastically support the bill.

OPPONENTS

None were heard.

Questions from the committee were called for.

Mr. Melby clarified for Senator Halligan that the duration of the business improvement district would be 10 years unless otherwise specified by the resolution that created it. He noted that 10 years was the maximum allowed without the creation of a new district.

Senator Eck asked about the protest provisions wanting to know on what the 50 percent would be based. Mr. Melby responded that it was his understanding that it would be based on taxable value. He said the amendments could address that more specifically if necessary.

In response to another question by Senator Eck, Mr. Melby explained that the governing body first forms a work plan, then prepared a budget and finally decides the manner of assessments. He said the local government entity can adjust this before adopting the plan. Senator Eck said that perhaps the protest method could be decided at that point as well because protest would be premature before the assessment method was determined.

Mr. Melby, in response to a question from Senator Lybeck, said that compensation could not accrue to any individual.

Senator Neuman felt that local government would receive criticism for a tax increase. Mr. Melby responded that this would represent a broader group of people seeking to tax themselves. He said it should be viewed as enabling legislation. He likened it to a special improvement district.

Representative Brown, in closing, said that she had served for one year as president of the Helena Downtown Merchants Association. She said this bill would be an effective tool for a better downtown. She said that if the bill passed, she would request that Senator Mazurek carry the bill.

CONSIDERATION OF HB 696: Representative Les Kitselman was recognized as chief sponsor of HB 696. He said the bill would repeal a rule adopted by the Department of Revenue in December of 1984. He said the enactment of the rule would raise the valuation on Mountain Bell by 23 percent and on Montana Power by 40 percent. He said that if the repeal is not done it will leave everyone in an uncomfortable situation that could require litigation to resolve.

PROPONENTS

Mr. Dennis Burr, representing Mountain Bell, said that the Department can currently look at replacement cost depreciated as akin to market

ROLL CALL

SENATE TAXATION COMMITTEE

49th Legislative Session -- 1985

Date March 26, 1985 8:03am

Location -- Room 413-415

Name	Present	Absent	Excused
Senator Brown	8:24am		
Senator Eck	✓		
Senator Goodover	✓		
Senator Hager	8:15am		
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek	✓		
Senator McCallum	9:05am		
Senator Neuman	✓		
Senator Severson	✓		
Senator Towe	✓		

COMMITTEE ON Taxation DATE 6 March 85

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Bill Verwolf	City of Helena	616	✓	
David Ealy	MT Econ Dev Assn	616	✓	
Greg Jackson	Urban Coalition	616	✓	
L Morris	MACo	616 704	✓	
Jim Beck	Ma Co Powell Co.	704	✓	
Pat Melby	Helena Imp. Society	616	✓	
Dennis Burr	MonTax	704		✓
Dennis Burr	MT Bldg	696	✓	
Jim Erdmann	MT School Bd Assoc	704	✓	
Clark Ryder	Mont Ambassadors (Great Falls)	616	✓	
Roger Young	Great Falls Chamber of Commerce	616		
Alan Nicholson	Helena Imp. Society	616		
Larry T Douglas	Mont. Dept. Commerce	616	✓	
GENE PHILLIPS	PACIFIC POWER & LIGHT	696	X	
Floyd McKee	Powell County High School	704	X	
Bill Anderson	OPI	704	X	
Tony Cotton	Deer Lodge Elem	704	X	
Robert L Emmons	Boulder Bus. Sch.	704	X	
Bruce Anderson	Butte Sch Dist 1	704	X	

(Please leave prepared statement with Secretary)

(This sheet to be used by those testifying on a bill.)

NAME: Roger W Young, President DATE: 3/26/85

ADDRESS: Great Falls Area Chamber of Commerce Box 2127

PHONE: 761-4434

REPRESENTING WHOM? Great Falls Area Chamber of Commerce

APPEARING ON WHICH PROPOSAL: HB 616

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENT: The Great Falls Chamber supports giving local business communities another tool to use in stimulating economic development. SID's typically deal with physical improvement and construction projects, BID's provide a means to harness the collective power of business in an area for promotion, maintenance beautification, mutual security, etc. The BID is something which could help to revitalize downtown Great Falls in a "self-help" manner. We have discussed successful experiences with other cities which have implemented BID's.

We are unaware of any immediate plans or intent to implement a BID in Great Falls should HB616 pass, however we do advocate the legislative option of having it. We think it has great potential.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME Clark Pafs BILL NO. 616

ADDRESS East Helena DATE 3/14/85

WHOM DO YOU REPRESENT Montana Ambassadors & Helena Improvement Assn.

SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

In the out of state situation of Pres Ed Jasmin - he has asked me to represent the Montana Ambassadors as their chairman of the Community Recognition Program.

SUMMARY OF PROPOSED AMENDMENTS TO HOUSE BILL 616
THIRD READING COPY

The following is a summary of amendments proposed to House Bill 616 (third reading copy). These amendments are proposed to make some technical corrections and to alleviate some concerns which were expressed in the floor debate in the House.

Amendment 1. House Bill 616 was amended on the floor of the House to include the city manager in a city commission form of government in the definition of "chief executive officer." This amendment was made in response to a recent supreme court decision which stated that the city manager rather than the mayor in a city commission form of government hires and fires city personnel. The only function of the chief executive officer in the business improvement district bill is to appoint the members of the board of trustees. Appointments to boards is still the function of the mayor in city commission forms of government and it should be the function of the mayor in this act.

Amendments 2, 3, and 4. House Bill 616 presently states that a business improvement district is created in the same manner as a special improvement district pursuant to Title 7, Chapter 12, Part 41. This reference to the creation of a special improvement district causes confusion and makes it difficult to follow just exactly how a business improvement district is created. In addition, special improvement districts involve capital improvements and in some ways the creation of a special improvement district is not appropriate to the creation of a business improvement district. For this reason, it is suggested that the procedure for creating a business improvement district be included in the bill. In this manner, all of the statutes dealing with a business improvement district would be found in one chapter of the codes. In addition, future changes in the procedure in forming a special improvement district would not affect the creation of a business improvement district. The procedure included in these amendments parallels the procedure for the creation of a special improvement district.

Amendments 6 and 9. These amendments would provide flexibility to the governing body to levy assessments and would allow alternative methods of assessment to insure that the assessment was done in an equitable manner. The bill presently provides for only one way of levying an assessment - on the assessed value. The bill further provides that the governing body can levy the assessment in this matter only if it is equitable in proportion to the benefits received. If the governing body could not make that determination it could not go forward with the creation of a business improvement district.

Exhibit 1 -- HB 616
March 26, 1985

To insure equitable assessment and to provide flexibility, several alternative methods of levying the assessment are allowed, including a combination.

Amendments 7 and 8. These amendments are technical only. They clarify that the governing body is levying an assessment to fund the business improvement district, not a tax.

Amendment 10. There was concern expressed on the floor of the House during debate that the business improvement district was perpetual and that there was no way for the owners within the district to dissolve it. This amendment would provide that the district would have a period of duration as specified in the resolution of creation but that the period of duration would not be longer than ten years unless the district was extended by going through the process required for the original creation of the district.

Proposed Amendments to House Bill 616 3rd Reading Copy

1. Page 2, lines 15 and 16.
Following: "municipality"
Strike: "city manager in city commission form of government,"

2. Page 2, line 24.
Following: line 24
Insert: "(7) 'owner' means a person in whom appears the legal title to real property by deed duly recorded in the county records or a person in possession of real property under claim of ownership for himself or as the personal representative, agent, or guardian of the owner."

3. Page 3, lines 4 through 6.
Following: "district" on line 4
Strike: the remainder of lines 4 through 6
Insert: "as provided in [this act]"

4. Page 3, lines 10 through 15.
Strike: lines 10 through 15 in their entirety.
Insert: "Section 5. Resolution of intention to create business improvement district - notice. (1) Before creating a district, the governing body shall pass a resolution of intention to do so designating the boundaries thereof.

(2) Notice of passage of the resolution must be published for five days in a daily newspaper or in one issue of a weekly paper published in the municipality or county or, in case no newspaper is published in the municipality or county, then by posting for five days in three public places in the municipality or county. A copy of the notice shall be mailed to every owner of real property within the proposed district listed on the last completed assessment roll for state, county, and school district taxes, at the owner's last-known address, on the same day the notice is first published or posted.

(3) The notice must describe the general purpose of the district and designate the time when and the place where the governing body will hear and pass upon all protests that may be made against the creation of such district. The notice shall refer to the resolution on file with the governing body or clerk, if any, for the description of the boundaries.

9. Page 7, line 4.
Following: "Section 11."
Strike: The remainder of section 11 in its entirety.
Insert: "Assessment of costs -- area, lot, and taxable valuation options. (1) At the same time the board submits the annual budget and work plan to the governing body as provided in [section 14], the board shall also recommend to the governing body a method of levying an assessment on the property within the district which will best ensure that the assessments on each lot or parcel is equitable in proportion to the benefits to be received.

(2) The governing body shall assess the entire cost of the district against the entire district using a method which best ensures that the assessments on each lot or parcel is equitable in proportion to the benefits to be received. In determining the method of assessment to be used the governing body shall consider the recommendations of the board. The governing board shall levy the assessment using one of the following methods:

(a) each lot or parcel of land within such district may be assessed for that part of the whole cost which its area bears to the area of the entire district, exclusive of streets, avenues, alleys, and public places;

(b) if the governing body determines that the benefits derived by each lot or parcel are substantially equivalent, the cost may be assessed equally to each lot or parcel located within the district without regard to the area of the lot or parcel;

(c) each lot or parcel of land, including the improvements thereon, may be assessed for that part of the whole cost of the district which its taxable valuation bears to the total taxable valuation of the property of the district; or

(d) by using any combination of the assessment options provided in subsections (1)(a) through (1)(c).

10. Page 8, line 1.
Following: "is"
Strike: the remainder of Section 12.
Insert: "for the period specified in the resolution of the governing body creating the district but shall not be for a period longer than 10 years unless the duration of the district is extended in compliance with the provisions of [this act] for the creation of a district."

Section 6. Protest against proposed district. (1) Any owner of property liable to be assessed may make written protest against the extent or creation of the district to be assessed or both.

(2) The protest must be in writing and must be delivered to the governing body or its clerk, if any, not later than 5 p.m. of the last day within 15 days after the date of the first publication of the notice of the resolution of intention. The date and hour of receipt of the protest shall be endorsed thereon.

Section 7. Hearing on protest, sufficient protest to bar proceedings. (1) At a regular meeting of the governing body after the expiration of the time within which protest may be made, the governing body shall proceed to hear and pass upon all protests. Its decision shall be final and conclusive.

(2) The governing body may adjourn the hearing from time to time. A protestant shall have the right to withdraw a protest at any time before final action thereon by the council or commission.

(3) No further proceedings may be taken for a period of one year from the date when protest has been received by the governing body by owners of more than 50% of the property to be assessed for the district.

Section 8. Resolution creating special improvement district. When no protests have been delivered to the governing body within 15 days after the date of the first publication of the notice of the passing of the resolution of intention, when a protest shall have been found by the governing body to be insufficient or has been overruled, or when a protest against the extent of the proposed district has been heard and denied, the governing body has jurisdiction to order the creation of the district and shall pass a resolution creating the district in accordance with the resolution of intention."

6. Page 6, line 24.
Following: "basis"
Strike: "the method"
Insert: "one of the methods"

7. Page 6, line 15.
Strike: "assess a tax"
Insert: "levy an assessment"

8. Page 6, line 22.
Strike: "and assess a tax"
Insert: "an assessment"

CONSIDERATION OF HB 884:

MOTION: Senator Hager moved that HB 884 be concurred in. The motion carried unanimously. Senator Hager agreed to carry the bill.

CONSIDERATION OF HB 101: It was noted to the committee that the bill already carried amendments. The amended fiscal note reflected costs as the committee had anticipated.

MOTION: Senator Halligan moved that HB 101 be concurred in as amended. The motion carried unanimously and Senator Severson agreed to carry the bill.

CONSIDERATION OF HB 616:

MOTION: Senator Halligan moved that HB 616 be amended per the standing committee report attached here.

Senator Halligan reviewed the amendments saying that they dealt with the creation of a district rather than with the substance of the bill itself.

Mr. Pat Melby was recognized. He said that the bill came out of the House committee right before transmittal deadline. He said it had been amended on the floor to add language that later was found to be inappropriate. He said that the mayor should be responsible for appointment of the board. He said that originally the bill had patterned business improvement district language after the special improvement district language, but that now it was felt that a BID should not be attached statutorily to the SID language. He said the amendments provide for flexibility in assessing costs and also limit the life of the BID.

The motion carried unanimously.

MOTION: Senator Halligan moved that HB 616 be concurred in as amended.

Senator McCallum noted that there were several bills on very similar subjects.

Senator Eck said that the bill appropriately offered options to local government on the creation of the BID.

Senator Halligan said that the bill did not erode the tax base.

Question was called and the motion carried unanimously. Senator Mazurek, absent at the moment, had agreed to carry the bill.

CONSIDERATION OF HB 315: Senator Hager asked about fiscal impact of the bill. Mr Jim Lear, committee staff, told the committee that the bill had no fiscal impact and that the fiscal note carried assumptions that were incorrect. He said the exception was to the proration and not to the taxation of parks. He said park taxes would be paid by the association or the developer.

ROLL CALL

SENATE TAXATION COMMITTEE

49th Legislative Session -- 1985

Date March 27, 1985 8:07am

Location -- Room 413-415

Name	Present	Absent	Excused
Senator Brown	✓		
Senator Eck	✓		
Senator Goodover	✓		
Senator Hager	✓		
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek	✓		
Senator McCallum	✓		
Senator Neuman	✓		
Senator Severson	✓		
Senator Towe	✓		

STANDING COMMITTEE REPORT

March 27, 19 85

MR. PRESIDENT

We, your committee on Taxation

having had under consideration House Bill No. 616

third reading copy (blue color)

(Senator Mazurek)

AUTHORIZING CREATION OF BUSINESS IMPROVEMENT DISTRICTS.

Respectfully report as follows: That House Bill No. 616

be amended as follows:

1. Page 2, lines 15 and 16.
Following: "municipality,"
Strike: "CITY MANAGER IN CITY COMMISSION FORM OF GOVERNMENT,"

2. Page 2.
Following: line 24
Insert: "(7) "Owner" means a person in whom appears the legal title to real property by deed duly recorded in the county records or a person in possession of real property under claim of ownership for himself or as the personal representative, agent, or guardian of the owner."

3. Page 3, lines 4 through 6.
Following: "district" on line 4
Strike: remainder of line 4 through "except" on line 6
Following: "as" on line 6
Strike: "otherwise"

4. Page 3, lines 10 through 15.
Strike: lines 10 through 15 in their entirety.
Insert: "Section 5. Resolution of intention to create business improvement district--notice. (1) Before creating a district the governing body shall pass a resolution of intention to do so designating the boundaries thereof.

(2) Notice of passage of the resolution must be published for five days in a daily newspaper or in one issue of a weekly paper published in the municipality or county or, in case no newspaper is published in the municipality or county, then by

BUSINESS

IMPROVEMENT

continued

Chairman.

posting for 5 days in three public places in the municipality or county. A copy of the notice shall be mailed to every owner of real property within the proposed district listed on the last completed assessment roll for state, county, and school district taxes, at the owner's last-known address, on the same day the notice is first published or posted.

(3) The notice must describe the general purpose of the district and designate the time when and the place where the governing body will hear and pass upon all protests that may be made against the creation of such district. The notice shall refer to the resolution on file with the governing body or clerk, if any, for the description of the boundaries.

Section 6. Protest against proposed district. (1) Any owner of property liable to be assessed may make written protest against the extent or creation of the district to be assessed or both.

(2) The protest must be in writing and must be delivered to the governing body or its clerk, if any, not later than 5 p.m. of the last day within 15 days after the date of the first publication of the notice of the resolution of intention. The date and hour of receipt of the protest shall be endorsed thereon.

Section 7. Hearing on protest--sufficient protest to bar proceedings. (1) At a regular meeting of the governing body after the expiration of the time within which protest may be made, the governing body shall proceed to hear and pass upon all protests. Its decision shall be final and conclusive.

(2) The governing body may adjourn the hearing from time to time. A protestant shall have the right to withdraw a protest at any time before final action thereon by the council or commission.

(3) No further proceedings may be taken for a period of one year from the date when protest has been received by the governing body by owners of more than 50% of the property to be assessed for the district.

Section 8. Resolution creating business improvement district. When no protests have been delivered to the governing body within 15 days after the date of the first publication of the notice of the passing of the resolution of intention, when a protest shall have been found by the governing body to be insufficient or has been overruled, or when a protest against the extent of the proposed district has been heard and denied, the governing body has jurisdiction to order the creation of the district and shall pass a resolution creating the district in accordance with the resolution of intention."

Renumber: subsequent sections

5. Page 6, line 15.
Following: line 14
Strike: "assess a tax"
Insert: "levy an assessment"

continued

6. Page 6, line 22.
Following: "levy"
Strike: "and assess a tax"
Insert: "an assessment"

7. Page 6, line 24.
Following: "BASIS"
Strike: "THE METHOD"
Insert: "one or the methods"

8. Page 6, line 25.
Following: "section"
Strike: "11"
Insert: "15"

9. Page 7, lines 4 through 24.
Following: line 3
Strike: Section 11 in its entirety
Insert: "Section 15. Assessment of costs--area, lot, and taxable valuation options. (1) At the same time the board submits the annual budget and work plan to the governing body as provided in [section 14], the board shall also recommend to the governing body a method of levying an assessment on the property within the district which will best ensure that the assessment on each lot or parcel is equitable inpproportion to the benefits to be received.

(2) The governing body shall assess the entire cost of the district against the entire district using a method which best ensures that the assessment on each lot or parcel is equitable in proportion to the benefits to be received. In determining the method of assessment to be used the governing body shall consider the recommendations of the board. The governing board shall levy the assessment using one of the following methods:

(a) each lot or parcel of land within such district may be assessed for that part of the whole cost which its area bears to the area of the entire district, exclusive of streets, avenues, alleys, and public places;

(b) if the governing body determines that the benefits derived by each lot or parcel are substantially equivalent, the cost may be assessed equally to each lot or parcel located within the district without regard to the area of the lot or parcel;

(c) each lot or parcel of land, including the improvements thereon, may be assessed for that part of the whole cost of the district which its taxable valuation bears to the total taxable valuation of the property of the district; or

(d) by using any combination of the assessment options provided in subsections (a) through (c)."

10. Page 8, lines 1 and 2.
Following: "is" on line 1
Strike: remainder of line 1 through line 2
Insert: "for the period specified in the resolution of the governing body creating the district but shall not be for a period

continued

longer than 10 years unless the duration of the district is extended in compliance with the provisions of [this act] for the creation of a district."

AND AS AMENDED
BE CONCURRED IN

(To be kept current -- post bills when entering being heard or leaving committee.) Form CS-32

STATUS SHEET

49th LEGISLATIVE SESSION

COMMITTEE ON LOCAL GOVERNMENT

HOUSE BILLS

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 517	1-28-85	2-12-85	2-12-85			2-12-85			
HB 483	1-25-85	2-14-85	2-14-85			2-14-85			
HB 484	1-25-85	2-14-85	2-14-85			2-14-85			
HB 519	1-28-85	2-12-85	2-12-85	2-12-85					
HB 545	1-29-85	2-14-85	2-14-85		2-14-85				
HB 546	1-29-85	2-16-85	TABLED 2-16-85						
HB 558	1-30-85	2-16-85	2-16-85	2-16-85					
HB 564	1-30-85	2-16-85	2-16-85	2-16-85					
HB 569	1-30-85	2-16-85	2-16-85			2-16-85			
HB 580	1-31-85	2-12-85	2-12-85	2-12-85					
HB 582	1-31-85	2-5-85	2-5-85			2-5-85			
HB 612	2-1-85	2-7-85				2-7-85			
HB 614	2-1-85	2-9-85	2-9-85			2-9-85			
HB 624	2-1-85	2-9-85	TABLED 2-9-85						
HB 625	2-1-85	2-7-85	2-7-85	2-7-85					
HB 616	2-2-85	2-12-85	TABLED 2-14-85			2-26-85	Reconsidered		

2-21-85 - Reconsider & take off table - Motion failed

Use a separate sheet for Senate, House Bills, and Resolutions

now, but this amendment would help to bring local health departments to these people. For those reasons, they stand in support of this bill.

There were no opponents to HB 727.

In closing, Rep. Hansen said she would like to point out that the State Health Department has the authority to make the inspections. She requested support of HB 727.

DISCUSSION OF HOUSE BILL NO. 727: Rep. Gilbert asked Rep. Hansen if this bill passes, on page 3, line 13-18 - does it mean one of these individuals could come and inspect his permanent septic tank. Rep. Hansen replied that the intent of this bill is not to violate the personal septic tank. Rep. Gilbert then asked if they could come to his place and inspect his system without his permission. Rep. Hansen said it may be possible under these rules. Rep. Gilbert then said when he sees the words "for the control" he suspects this could possibly be done; therefore, he felt there should be some changes.

Rep. Sands addressed Jim Carlson and said all of the rest of the authority that is contained in the current law deals with contagious communicable diseases that might endanger human life - none of it applies to section 5. He asked why the bill was drafted without the qualifying phrase? Mr. Carlson answered that it would be alright with them to include service connections.

CONSIDERATION OF HOUSE BILL NO. 616: Rep. Jan Brown, sponsor of the bill, appeared before the committee to present the bill. The purpose of this bill is to authorize creation of business improvement districts. This legislation would give a business district the ability to split taxes such as a shopping center.

PROPONENTS: Pat Melby, Helena Improvement Society, stated this is a society made up of downtown businesses in Helena. They use this as another tool to pursue that problem. This is enabling legislation that would authorize businesses and property owners in an area to get together. A petition of 60% of the property owners in the area would be a business district area. It would authorize a protest to be filed with the local government. A public hearing would be held to decide if a district should be approved. If over 50% would protest it would prevent proceedings for one year. The chief executive of the local government would appoint a board of trustees with the approval of the governing body, of 5-7 members. The city commissioner would hold a public hearing so residents could come to oppose or approve it. The funds raised through the levy would be used to administer the district. He concluded by saying that the people in downtown Helena have been interested in this type of legislation for a long time and they are asking for the opportunity to create such a district.

Larry Douglas, staff member of the Montana Department of Commerce, reported he is here to support this bill. This past year they have conducted meetings and workshops in 23 Montana communities. In reviewing the proposed legislation in HB 616, they have found several features that are of interest to the survival of "main street America" which they like. Montana communities of all sizes benefit from this legislation. He said he appreciated the opportunity to appear before the committee and urged favorable passage of this legislation.

Ed Jasmin, President of Northwest Bank of Helena, stated this piece of legisaltion assists in incentives to create business improvement districts.

Jim Davison of Anaconda, stated this is the type of legislation that the Montana Economic League likes to support. This provides local businesses a way to help themselves. It is a tool of funding for private citizens to provide for a special need for a special district. It provides benefits for an entire area.

Bill Verwolf, representing the City of Helena, stated they have been a backer and supporter of this concept for a long time. This is one of the priorities for the development of Helena. It provides a mechanism whereby the local government can assist without funding. Local governments can help set up and establish a business industry without costing money. He said they strongly support this.

Greg Jackson of the Urban Coalition said they would like to go on record in support of this bill as it provides a unique way for businesses and communities to work together.

Gordon Morris, Montana Association of Counties, also said they would like to go on record in support of HB 616.

Alec Hansen, Montana League of Cities and Towns, said their organization supports this bill.

Roger W. Young, President of the Great Falls Chamber of Commerce, submitted a letter in support of HB 616, which is attached as Exhibit 1.

Rep. Paul Pistoria presented three telegrams from supporters of this bill from Great Falls. They are: Rod Spencer, Steve Dimino and Ira M. Kaufman, Jr. These are attached as Exhibit 2.

OPPONENTS: George Allen, lobbyist for Montana Retailers Association, stated he is representing himself. He is very reluctantly opposing this bill because of the way it is written. On the bottom of page 6 where it deals with the manner of assessing costs by the governing body, and on page 7, line 3, he is in objection to paragraph 1. If this is adopted, you

could have a building seven stories high on a small piece of land. In paragraph 2, assessing property on an assessed value is a more fair way of doing it rather than on a square footage. If we go with paragraph 1 instead of 2, we could tax government buildings. He concluded by saying he would oppose the bill as it is written but would support it if the wording is changed.

DISCUSSION OF HOUSE BILL NO. 616: Rep. Sands asked Rep. Jan Brown what kind of empathy this is for tax purposes and liability purposes. Rep. Brown said she would ask Mr. Melby to answer, and he said that as far as liabilities are concerned, there is a provision that limits local governments' liabilities. Rep. Sands then asked for tax purposes, this organization would not pay taxes, to which he was told no, they would not pay taxes. Rep. Sands then asked if he sued the district for negligence and received a judgment, how would he collect that judgment? The answer was that the city commissioners would request the district to carry sufficient liability insurance, and if they do not have sufficient insurance, they would have to have sufficient funds in the budget for this purpose. Rep. Sands also asked if they don't have the funds, could the individuals be liable. The answer was the individual property owners would not be liable or subjected to this.

Rep. Pistoria addressed Al Johnson of Great Falls, and told him he had just gotten a telegram from Steve Dimino, president of Alpha Management Associates, supporting this bill and Rep. Pistoria assumed that Mr. Johnson also came to support it. Mr. Johnson said, in general, he would be in support of the bill. The main problem he has with the bill is there is a provision for the removal of members. Rep. Pistoria asked if this is for a business district or a residential district. The answer was that there was nothing to prevent residential districts from doing this but he didn't know why they would want to.

CONSIDERATION OF HOUSE BILL NO. 519: Rep. Walter Sales, District #76, sponsor of this bill, presented it to the committee. This bill requires payment of property taxes before a parcel of land may be divided. He said this was requested several years ago.

PROPONENTS: Charles Graveley, on behalf of the County Treasurers' Association, stated they are fully in support of this bill. As Rep. Sales indicated, it is to make sure taxes are paid before land can be divided. Page 1, line 18 through line 9 on page 2 lists the types of transfers that are exempted from the subdivision act. This simply closes loopholes. They asked the committee's favorable recommendation as it will go a great distance to require that taxes are paid before plats are filed.

Jim Pritchard of Property Planners, stated this bill will help to keep better records.

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

LOCAL GOVERNMENT COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date Feb. 12, 198

NAME	PRESENT	ABSENT	EXCUSED
Paula Darko, Chairman	✓		
Norm Wallin, Vice Chairman	✓ late		
Ray Brandewie	✓		
Dave Brown	✓ late		
Harry Fritz	✓		
Stella Jean Hansen	✓		
Bob Gilbert	✓		
Mike Kadas	✓		
Les Kitselman	✓		
Paul Pistoria	✓		
Bing Poff	✓		
Walter Sales	✓		
Jack Sands	✓		
Dean Switzer	✓		

Please attach to minutes.

EXHIBIT 1
HB 616
2-12-85
Rep. Jan Bro

GREAT FALLS AREA CHAMBER OF COMMERCE

P.O. BOX 2127
926 CENTRAL AVENUE
GREAT FALLS, MONTANA 59403
(406) 761-4434

February 13, 1985

To: House Local Government Committee

From: Roger W. Young, President

Subject: ***BUSINESS IMPROVEMENT DISTRICTS HB616 (J. BROWN)***

The Great Falls Area Chamber of Commerce supports the passage of HB 616 which gives local business communities another tool to use in stimulating economic prosperity. This bill authorizes the creation of Business Improvement Districts and provides procedures governing their establishment, operation and funding. Similar in nature to Special Improvement Districts, which typically deal with physical improvement and construction projects, BID's provide a means to harness the collective power of businesses in an area for promotion, maintenance, beautification, mutual security, etc. It is a device that is implemented only when the majority of affected property owners want it. Protests to a BID's formation are handled in the same manner as SID's so the rights of everyone involved are protected.

The business improvement district is something which could help to revitalize downtown Great Falls in a "self-help" manner. We have discussed the experiences downtown Salt Lake City has had with its BID. They are very pleased with what it has done to help control and manage situations so as to make the area more functional and attractive.

Although we are unaware of any immediate plans or intent to implement a business improvement district in Great Falls should HB 616 pass, we do advocate the Legislature giving us the option of having it. We think it has come potential and no risk.

cc: Cascade County Delegation

Exhibit 2
HB 616
2-12
ep
f Brown

FEB 12 '85 13:06 WU PTLD OR 8005471371 PD1

Western Union Telegram

FEB12-PM 4:02

1-015974A043 02/12/85
ICS IPMPTUH PTL
01711 02-12 1252P PDT PTUG
ICS IPMPTUZ

FAX 406-442-8407 WU LEG HEL

4-030090S043 02/12/85
ICS IPMRNCZ CSP
4067274260 POM TDRN GREAT FALLS MT 13 02-12 0312P EST
PMS REPRESENTATIVE PAULA DARKO
HELENA MT 59601
URGE SUPPORT HB616 ENABLE BID FORMATION SUCCESSFUL NEIGHBORING STATES
DEVELOPMENT TOOL FOR DOWNTOWNS.
STEVE DIMINO PRESIDENT ALPHA MANAGEMENT ASSOCIATES
600 CENTRAL PLAZA
GREAT FALLS MT 59401

1544 EST

1603 EST

FEB 12 '85 12:48 WU PTLD OR 8005471371 P02

Telegram

1985 FEB 12 PM 12 93

1-014657A043 02/12/85
ICS IPMPTUB PTL
03661 02-12 1216P PST PTUA
ICS IPMPTUZ TELECOPIER 406-442-8407
4-024255S043 02/12/85
ICS IPMRNCZ CSP
4066651111 POM TDRN GREAT FALLS MT 13 02-12 0205P EST
PMS PAULA DARKO
HELENA MT
URGE PASSAGE HB616 BILL WELL WRITTEN SID WORKS WELL OTHER AREAS UTAH
ETC
IRA M KAUFMAN JR
411 CENTRAL AVE
GREATFALLS MT 59401

1511 EST

1521 EST

FEB 12 '85 12:47 WU PTLD OR 8005471371 P01

Western Union Telegram

1985 FEB 12 PM 12:41

1-013272A043 02/12/85
ICS IPMPTUB PTL
03981 02-12 1239P PST PTUA
ICS IPMPTUZ TELECOPIER 406-442-8407
4-027B345043 02/12/85
ICS IPMRNCZ CSP
406/613030 POM TORN GREAT FALLS MT 24 02-12 0247P EST
PMS REPRESENTATIVE PAULA DARKO
HELENA MT 59601
I URGE YOUR SUPPORT OF HOUSE BILL 616 SO THAT GREAT FALLS AND OTHER MONTANA COMMUNITIES WILL HAVE THE TOOLS TO PROGRESS AND PROSPER.
ROD SPENCER
SPENCERS OF MONTANA
325 CENTRAL AVE
GREAT FALLS MT 59401

1030 EST

1544 EST

VISITORS' REGISTER

Local Government COMMITTEE

BILL NO. HB 616 DATE Feb. 12, 1985

SPONSOR Rep. J. Brown

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
J. D Swisher	Anaconda	✓	
Pat Melby	Helena	✓	
Greg Jackson	Urban Coalition	✓	
ED JASMIN	HIS AND MT AMERICAN	✓	
Bill Verwolf	Helena City	✓	
Al J Duncan	Great Falls	✓	
Harry T Douglas	Helena, D.O.C.	✓	
George Allen	HELENA		X
Clark Wyler	Helena	✓	
Alec Hansen	MLCT	✓	
Alan Nicholson	Helena	✓	
Julia E Morales	Helena		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

DISPOSITION OF HOUSE BILL NO. 385: The motion of DO NOT PASS was made by Rep. Brandewie, seconded by Rep. Gilbert. Question being called for, motion CARRIED on a 9 to 5 vote.

DISPOSITION OF HOUSE BILL NO. 616: Rep. Kitselman moved that HB 616 DO PASS, seconded by Rep. Brown. Rep. Kitselman then moved to amend, and this was also seconded by Rep. Brown. Rep. Kitselman said that by striking Subsection 3 it would clear up the problem George Allen has. Assessment is the only way to go. Rep. Pistoria said he has received a lot of calls from people who don't want to be included in a business improvement district. Rep. Gilbert stated he doesn't think there is anything where they would exclude residents.

Question being called for, motion CARRIED.

Rep. Kitselman then moved to amend line 16 and line 22 on page 2 to insert "board of county commissioners" after city-county government. This was seconded by Rep. Brown. Motion PASSED.

Rep. Kitselman moved to DO PASS AS AMENDED HB 616, seconded by Rep. Brown. Rep. Pistoria stated he wanted to make sure we don't take in residential areas, and wondered if there is any way that something could be added to not add residential. Rep. Brandewie said it would take a lot of people to change it.

Rep. Sands stated this business district is going to be a public agency, and will promote all kinds of private things like street maintenance. It says that the local government entity would not have any responsibility. If someone is injured, what kinds of assets do they go after? Rep. Brandewie answered that they have no assets. Rep. Sands then said that section 14, page 8 says that local government is not liable for any obligation or debt if there is a judgment against a district. Rep. Kitselman said that if a board is set up there would have to be a general liability policy to cover this. Lee Heiman stated that he can't find anything to address this kind of problem, even in airports. The powers of the board to purchase liability insurance is stated in section 9, beginning on page 4. If they don't do it, the board members themselves would be liable.

Rep. Sands felt there is a real problem with this bill, as there are a bunch of businessmen operating under a public entity and they escape from any kind of liability. Rep. Gilbert asked if he had any suggestions. Rep. Sands stated he would like to move to table the bill.

Rep. Brandewie said if we pass this, the bill has no substance.

Rep. Brown moved to amend line 2, to strike Subsection (2), and this was seconded by Rep. Kitselman. Question being called for, motion PASSED.

Rep. Sands stated that the way this is written, he can't imagine why any group of businessmen would want to use it.

Rep. Sands then moved TO TABLE HB 616, and this was seconded by Rep. Pistoria. Motion CARRIED, with 4 members voting no.

Rep. Kitselman moved to draft a committee bill in regards to the amendments on HB 484. This was seconded by Rep. Brandewie. Rep. Kitselman said it takes a 3/4 vote of the committee to draft a committee bill. Rep. Switzer suggested to amend to reduce expanding water districts, that sewer boards can expand, but not water boards. The motion to draft a committee bill FAILED.

Rep. Brown told the committee that he had received a call from the sheriff of Glendive regarding an amendment putting a cap on someone leaving the force and is gone for longer than three years. He would have to go back to the academy and train again in order to go back to the force. They have an officer that was gone 3 1/2 years and they can't afford to send him to the academy. They asked the committee to consider limiting from 3 to 5 years for someone to be off the force and then come back on. Rep. Brown asked if there was substantial resistance from the committee.

Rep. Brown then made a motion to draft a committee bill to extend from three years to five years for when you have to go back to the academy after leaving the job. This was seconded by Rep. Brandewie. Rep. Brown stated that there are not very many people out there who are trained for these posts and it is too expensive to retrain them. Rep. Switzer asked if they are required to have a quicky refresher course. He stated they have a lot of trouble with sheriffs and deputy sheriffs in Glendive. The motion to draft a committee bill PASSED UNANIMOUSLY.

Rep. Sands then stated he would like the committee to re-consider their action and to draft a committee bill regarding amendments on HB 484, and moved to draft a committee bill. Motion CARRIED.

Rep. Brown then stated he was sorry he was not on the floor when Rep. Connelly's bill came up.

Chairman Darko thanked the committee for the good work they had done, as they had passed out 15 bills.

There being no further business before the committee, the meeting was adjourned at 8:04 p.m.

Rep. Paula Darko

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

LOCAL GOVERNMENT COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date Feb. 14, 19

NAME	PRESENT	ABSENT	EXCUSED
Paula Darko, Chairman	✓		
Norm Wallin, Vice Chairman	✓		
Ray Brandewie	✓ late		
Dave Brown	✓		
Harry Fritz	✓		
Stella Jean Hansen	✓		
Bob Gilbert	✓		
Mike Kadas	✓		
Les Kitselman	✓		
Paul Pistoria	✓ late		
Bing Poff	✓		
Walter Sales	✓		
Jack Sands	✓		
Dean Switzer	✓		

Please attach to minutes.

moved by Kitzenberg

AMEND HB 616

1. Page 6, lines 18 and 19.
Strike: "using as a basis one of the methods"
Insert: "the method"

2. Page 6, lines 23 through 25.
Strike: The governing body shall adopt one of the following methods of assessing costs for"
Insert: "For"

3. Page 7, lines 1 through 7.
Strike: ":" on line 1 through (2) on line 7

4. Page 7, line 7.
Strike: "may"
Insert: "shall"

5. Page 7, lines 13 through 15.
Strike: subsection (3) in its entirety

Rep. Pistoria then made a non-debatable motion to TABLE HB 865, and this was seconded by Rep. Kadas. Motion CARRIED with Rep. Sands, Rep. Brown, Rep. Wallin and Rep. Brandewie opposed.

DISPOSITION OF HOUSE BILL NO. 616: Rep. Kitselman moved to reconsider action on HB 616, and take it OFF THE TABLE. This was seconded by Rep. Brown. Motion FAILED on a Roll Call Vote of 8 to 6.

Rep. Sales suggested to the members of the committee to take HB 885 out of the books and take it home to study, as it is 66 pages long and deals with special improvement districts and rural improvement districts.

Rep. Brown moved to reconsider action on HB 776, which the committee tabled on 2-16-85. There are three lawsuits going on in the state, one in Lake county. In 1983, the Legislature said total hours worked in a year should not exceed 2,080 hours, and that the county commissioners may establish compensation for overtime. The difficulty is that the commissioners decided they did not want any overtime and they didn't want to pay it. That is what brought on the court case. On page 1, lines 19 and 20, "may" was changed to "shall" and he said he would like to leave it at "shall". It is up to the commissioners to set the rate of overtime so that it is clear in the statutes that overtime shall be paid. It would avoid a lot of legal proceedings.

Rep. Switzer seconded Rep. Brown's motion.

Rep. Sands asked how that amendment is going to avoid lawsuits, and Rep. Brown replied now the argument of the statute is changing "may" to "shall". Leave it to the county commissioners to decide overtime, we are not demanding that they pay 1 1/2 times or whatever. Rep. Sands stated he thinks the statute now provides that overtime pay has to be 1 1/2 times the regular rate of pay. If you amend the statute, they have to give overtime. Rep. Brown said if this is true, this isn't the way he understood it.

Rep. Switzer asked if the commissioners assume that they always have to pay overtime? Rep. Brown said he is only raising a question. How do you get around it? Rep. Gilbert said he has four people working for him and he pays them very well. Rep. Bandewie stated sometimes employees get comp. time.

Rep. Sands said that HB 393 and HB 405 state that no worker shall work over 40 hours without receiving overtime pay at 1 1/2 times the regular rate of pay.

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

LOCAL GOVERNMENT COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date Feb. 21, 19

NAME	PRESENT	ABSENT	EXCUSED
Paula Darko, Chairman	✓		
Norm Wallin, Vice Chairman	✓		
Ray Brandewie	✓		
Dave Brown	✓		
Harry Fritz	✓		
Stella Jean Hansen	✓		
Bob Gilbert	✓		
Mike Kadas	✓ late		
Les Kitselman	✓ late		
Paul Pistoria	✓		
Bing Poff	✓ late		
Walter Sales	✓		
Jack Sands	✓ late		
Dean Switzer	✓		

Please attach to minutes.

(Type in committee name, committee members' names, and names of secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

HOUSE COMMITTEE LOCAL GOVERNMENT

DATE Feb. 21, 1985 HOUSE Bill No. 616 Time _____

NAME	YES	NO
Darko, Paula - Chairman	✓	
Wallin, Norm - Vice Chairman		✓
Brandewie, Ray		✓
Brown, Dave	✓	
Fritz, Harry		✓
Hansen, Stella Jean		✓
Gilbert, Bob		✓
Kadas, Mike	✓	
Kitselman, Les	✓	
Pistoria, Paul		✓
Poff, Bing		✓
Sales, Walter	✓	
Sands, Jack	✓	
Switzer, Dean		✓
	6	8

Marianne Bagley
Secretary

Paula Darko
Chairman

Motion: Reconsider Action to take off Table. - FAILED

(Include enough information on motion -- put with yellow copy of committee report.)

CS-31

Pat Melby Submitted These Amendments

Proposed Amendments to House Bill 616

1. Page 2, line 15.
Following: "municipality"
Insert: ", the board of county commissioners in the case of a county"

2. Page 2, line 21.
Following: "municipality"
Insert: ", a county"

3. Page 5, lines 7 and 8.
Following: "of" on line 7
Strike: "the property owners' business and"

4. Page 6, Line 23 through line 15 on page 7.
Following: "Section 11" on line 23 on page 6
Strike: the remainder of lines 23 on page 6 through line 15 on page 7
Insert: "The governing body shall assess the entire cost of the district against the entire district, each lot or parcel of land and improvements within the district to be assessed for that part of the whole cost which its assessed value bears to the assessed value of the entire district, exclusive of streets, alleys, and public places."

5. Page 6, lines 19 through line 3 on page 8.
Strike: Section 13 in its entirety

6. Page 8, line 11.
Following: line 11
Insert: "Section 14. The governing body may not approve the annual budget or work plan submitted to it by the board unless the annual budget and the work plan provide for liability insurance coverage insuring the district, the board, and the local government against legal liability for personal injury and property damage in an amount determined sufficient for that purpose by the governing body."

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 26, 1985

The meeting of the Local Government Committee was called to order by Chairman Paula Darko on February 26, 1985 at noon in the Gallery on the 4th floor of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Brown and Rep. Sales who were excused.

The purpose of this meeting was to reconsider action on HB 616, which had been tabled on February 14, 1985.

DISPOSITION OF HOUSE BILL NO. 616: Rep. Stella Jean Hansen moved to reconsider HB 616, and this was seconded by Rep. Sands. Rep. Hansen then moved to DO PASS HB 616, seconded by Rep. Kitselman.

Rep. Kitselman then moved both sets of amendments, and this was seconded by Rep. Fritz. Lee Heiman, Committee Counsel, explained that the new set of amendments which he passed out included both sets of amendments.

Rep. Sands explained what the amendments were supposed to do. The language on page 2, lines 2 to 7, apparently was taken from a previous statute and they are alleviated. They are going to include counties. On page 2, line 15, "the board of county commissioners in the case of a county" is inserted, and on page 2, line 21, "county" is inserted. On page 3 and 4, the boundaries of a district must comply with applicable zoning regulations and the district may not include areas that are zoned primarily as residential areas. On page 5, lines 7 and 8 make it clear that what they can't do is move all their business functions to the business improvement districts and escape business responsibilities. This is to provide services to the public who uses the businesses. Page 7, lines 19 through line 3 on page 8, the purpose is to eliminate Section 13. It prohibits government body from doing its ordinary government services. Page 8, following line 3, a new section has been inserted. If a business improvement district is created, the local governing body must make sure it has adequate liability insurance to cover it. This amendment will be to provide that the method to be used is only on the value of the improvements.

Rep. Wallin asked if there was time to have the yellow bill printed, and Lee Heiman said he thought so.

Rep. Wallin then said he is most concerned about Section 13 which is deleted, and Rep. Sands asked if he wanted to put

that section back. Rep. Wallin replied that he thought he did want to put it back. Without this, you would have to take care of your own police. According to this, if we lose what little we have, this could be done.

Rep. Wallin then moved to reinsert Section 13, and this was seconded by Rep. Gilbert. Rep. Kitselman asked who proposed to strike it in the first place, and Rep. Sands replied that he did. However, he could see the reason for Rep. Wallin's concern, as some protection is needed. Question being called for, motion PASSED UNANIMOUSLY.

Rep. Wallin then made the motion to DO PASS AS AMENDED HB 616 and this was seconded by Rep. Fritz. Question was called for, and motion CARRIED, with Rep. Kitselman and Rep. Pistoria voting "no".

There being no further business before the committee the meeting was adjourned at 12:10 p.m.

Rep. Paula Darko

PAULA DARKO, Chairman

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

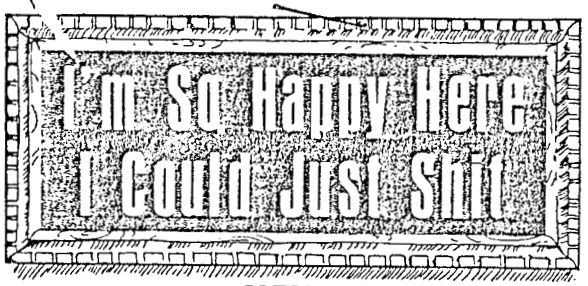
LOCAL GOVERNMENT COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3-26-85

NAME	PRESENT	ABSENT	EXCUSED
Paula Darko, Chairman	✓		
Norm Wallin, Vice Chairman	✓		
Ray Brandewie	✓		
Dave Brown			✓
Harry Fritz	✓		
Stella Jean Hansen	✓		
Bob Gilbert	✓		
Mike Kadas	✓		
Les Kitselman	✓		
Paul Pistoria	✓		
Bing Poff	✓		
Walter Sales			✓
Jack Sands	✓		
Dean Switzer	✓		

Please attach to minutes.



MEMO

HB-616

for reconsideration

for all amdts as Darko votes

for bill as amended

for all other motions as Darko votes

Dave Brown

2/26

50 SHEETS © ONCE UPON A PLANET Bos... NY ... P243

Proxy Kitselman

Reconsider yes

Do Pass yes

Amend yes

Do Pass as amended yes

Sign

Les Kitselman

Wallin Proxy

Reconsider yes

Do Pass ok

Amend. yes

Do Pass as amended yes

Sign Dawn Wallin

Sales Proxy HB616

on motions

Reconsider YES

Do Pass YES

Amend SANDS – YES
PISTORIA – YES, IF IT EXCLUDES AREAS ZONED RESIDENTIAL.
NO, IF IT JUST EXCLUDES RESIDENCES.

Do Pass as Amended YES

Sign

Walter D Sands

STANDING COMMITTEE REPORT

February 25 19 85

MR. SPEAKER:

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 616

FIRST reading copy (WHITE color)

AUTHORIZING CREATION OF BUSINESS IMPROVEMENT DISTRICTS.

Respectfully report as follows: That HOUSE Bill No. 616

be amended as follows:

1. Page 1, line 18.
Strike: "(1)"

2. Page 2, lines 2 through 7.
Strike: subsection (2) in its entirety

3. Page 3, line 15.
Following: "municipality"
Insert: ", the board of county commissioners in the case of a county."

DO PASS CONTINUED

STATE PUB. CO.
Helena, Mont.

Chairman.

COMMITTEE SECRETARY

February 25, 19 85

4. Page 3, line 21.
Following: "municipality"
Insert: ", a county,"

5. Page 3.
Following: line 4
Insert: "(3) The boundaries of a district must comply with applicable zoning regulations and the district may not include areas that are zoned primarily as residential areas."
Renumber: subsequent subsection

6. Page 5, lines 7 and 8.
Strike: "the property owner's business and"

7. Page 6, lines 18 and 19.
Strike: "using as a basis one of the methods"
Insert: "the method"

8. Page 6, lines 23 through 25.
Strike: "The governing body shall adopt one of the following methods of assessing costs for"
Insert: "For"

9. Page 7, lines 1 through 7.
Strike: ":" on line 1 through "The" on line 7
Insert: ", the"

10. Page 7, line 7.
Strike: "may"
Insert: "shall"

11. Page 7, line 12.
Following: "places"
Insert: "if the board determines such assessment to be equitable in proportion to, and not exceeding, the benefits received from the improvements by the lot, tract, or parcel"

12. Page 7, lines 13 through 15.
Strike: subsection (3) in its entirety

13. Page 8.
Following: line 3.
Insert: "Section 14. Liability insurance required. The governing body may not approve the annual budget or the work plan submitted to it by the board unless the annual budget and the work plan provide for liability insurance coverage insuring the district, the board, and the local government against legal liability for personal injury and property damage in an amount determined sufficient for that purpose by the governing body."
Renumber: subsequent sections

AND AS AMENDED,

DO PASS

PAULA DARKO, Chairman.

STATE PUB. CO.
Helena, Mont.

AMENDMENTS PROPOSED FOR HOUSE BILL 616

NOTE: AMENDMENTS GROUPED BY SUBJECT MATTER NOT PAGE PLACEMENT

INCLUDE COUNTIES:

1. Page 2, line 15.
Following: "municipality"
Insert: ", the board of county commissioners in the case of a county,"

2. Page 2, line 21.
Following: "municipality"
Insert: ", a county,"

DELETE LEGISLATIVE FINDINGS AND CONSTRUCTION:

3. Page 1, line 18.
Strike: "(1)"

4. Page 2, lines 2 through 7.
Strike: subsection (2) in its entirety

COMPLY WITH ZONING:

5. Page 3.
Following: line 4
Insert: "(2) The boundaries of a district must comply with applicable zoning regulations and the district may not include areas that are zoned primarily as residental areas."
Renumber: subsequent subsection

DELETE REFERENCE TO ENJOYMENT BY PROPERTY OWNERS:

6. Page 5, lines 7 and 8.
Strike: "the property owner's business and"

DELETE PROHIBITION ON DECREASING PUBLIC SERVICES:

7. Pages 7 line 19 through line 3 of page 8.
Strike: section 13 in its entirety.
Renumber: subsequent sections

LIABILITY INSURANCE IN PLAN:

8. Page 8.
Following: line 3.
Insert: "Section 14. Liability insurance required. The governing body may not approve the annual budget or the work plan submitted to it by the board unless the annual budget and the work plan provide for liability insurance coverage insuring the district, the board, and the local government against legal liability for

personal injury and property damage in an amount determined sufficient for that purpose by the governing body."

Renumber: subsequent sections

LIMIT TO ASSESSED VALUEATION ASSESSMENT:

9. Page 6, lines 18 and 19.
Strike: "using as a basis one of the methods"
Insert: "the method"

10. Page 6, lines 23 through 25.
Strike: "The governing body shall adopt on of the following methods of assessing costs for"
Insert: "For"

11. Page 7, lines 1 through 7.
Strike: ":" on line 1 through "(2)" on line 7

12. Page 7, line 7.
Strike: "may"
Insert: "shall"

13. Page 7, lines 13 through 15.
Strike: subsection (3) in its entirety

EQUITABLE VALUATION ASSESSMENT:

14. Page 7, line 12.
Following: "places"
Insert:"if the board determines such assessment to be equitable in proportion to and not exceeding the benefits received from the impovements by the lot, tract, or parcel"

AMEND HB 616

1. Page 6, lines 18 and 19.
Strike: "using as a basis one of the methods"
Insert: "the method"

2. Page 6, lines 23 through 25.
Strike: The governing body shall adopt one of the following methods of assessing costs for"
Insert: "For"

3. Page 7, lines 1 through 7.
Strike: ":" on line 1 through (2) on line 7

4. Page 7, line 7.
Strike: "may"
Insert: "shall"

5. Page 7, lines 13 through 15.
Strike: subsection (3) in its entirety

Jan

Proposed Amendments to House Bill 616

1. Page 2, line 15.
Following: "municipality"
Insert: ", the board of county commissioners in the case of a county"

2. Page 2, line 21.
Following: "municipality"
Insert: ", a county"

3. Page 5, lines 7 and 8.
Following: "of" on line 7
Strike: "the property owners' business and"

4. Page 6, Line 23 through line 15 on page 7.
Following: "Section 11" on line 23 on page 6
Strike: the remainder of lines 23 on page 6 through line 15 on page 7
Insert: "The governing body shall assess the entire cost of the district against the entire district, each lot or parcel of land and improvements within the district to be assessed for that part of the whole cost which its assessed value bears to the assessed value of the entire district, exclusive of streets, alleys, and public places."

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